

Introduced by Senator Kehoe

February 24, 2006

An act to repeal Section 390 of the Public Utilities Code, relating to electrical restructuring.

LEGISLATIVE COUNSEL'S DIGEST

SB 1833, as introduced, Kehoe. Electrical restructuring: energy prices paid to nonutility generators.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations. The existing restructuring of the electrical industry within the Public Utilities Act provides for the establishment of an independent Power Exchange as a nonprofit public benefit corporation. Existing law, enacted as part of restructuring, prescribes how energy prices paid to nonutility power generators (qualifying facilities) by an electrical corporation based on the commission's "short run avoided cost energy methodology" are to be determined, subject to applicable contractual terms. One of the existing determinants of the price to be paid by electrical corporations to qualifying facilities is the clearing price paid by the Power Exchange. Until this determinant is satisfied, existing law requires the commission to base short run avoided cost energy payments paid to qualifying facilities on a formula that reflects a starting energy price, adjusted monthly to reflect changes in a starting gas index price in relation to an average of current California natural gas border price indices.

This bill would repeal the above-described requirements for how the commission is to determine the energy prices paid to qualifying facilities by an electrical corporation.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 390 of the Public Utilities Code is
2 repealed.

3 390. ~~(a) Subject to applicable contractual terms, energy~~
4 ~~prices paid to nonutility power generators by a public utility~~
5 ~~electrical corporation based upon the commission's prescribed~~
6 ~~"short run avoided cost energy methodology" shall be~~
7 ~~determined as set forth in subdivisions (b) and (c).~~

8 ~~(b) Until the requirements of subdivision (c) have been~~
9 ~~satisfied, short run avoided cost energy payments paid to~~
10 ~~nonutility power generators by an electrical corporation shall be~~
11 ~~based on a formula that reflects a starting energy price, adjusted~~
12 ~~monthly to reflect changes in a starting gas index price in relation~~
13 ~~to an average of current California natural gas border price~~
14 ~~indices. The starting energy price shall be based on 12-month~~
15 ~~averages of recent, pre-January 1, 1996, short-run avoided energy~~
16 ~~prices paid by each public utility electrical corporation to~~
17 ~~nonutility power generators. The starting gas index price shall be~~
18 ~~established as an average of index gas prices for the same annual~~
19 ~~periods.~~

20 ~~(c) The short-run avoided cost energy payments paid to~~
21 ~~nonutility power generators by electrical corporations shall be~~
22 ~~based on the clearing price paid by the independent Power~~
23 ~~Exchange if (1) the commission has issued an order determining~~
24 ~~that the independent Power Exchange is functioning properly for~~
25 ~~the purposes of determining the short-run avoided cost energy~~
26 ~~payments to be made to nonutility power generators, and either~~
27 ~~(2) the fossil-fired generation units owned, directly or indirectly,~~
28 ~~by the public utility electrical corporation are authorized to~~
29 ~~charge market-based rates and the "going forward" costs of those~~
30 ~~units are being recovered solely through the clearing prices paid~~
31 ~~by the independent Power Exchange or from contracts with the~~
32 ~~Independent System Operator, whether those contracts are~~
33 ~~market-based or based on operating costs for particular~~
34 ~~utility-owned powerplant units and at particular times when~~
35 ~~reactive power/voltage support is not yet procurable at~~
36 ~~market-based rates at locations where it is needed, and are not~~
37 ~~being recovered directly or indirectly through any other source,~~
38 ~~or (3) the public utility electrical corporation has divested 90~~

1 percent of its gas-fired generation facilities that were operated to
2 meet load in 1994 and 1995. However, nonutility power
3 generators subject to this section may, upon appropriate notice to
4 the public utility electrical corporation, exercise a one-time
5 option to elect to thereafter receive energy payments based upon
6 the clearing price from the independent Power Exchange.

7 (d) If a nonutility power generator is being paid short-run
8 avoided costs energy payments by an electrical corporation by a
9 firm capacity contract, a forecast as-available capacity contract,
10 or a forecast as-delivered capacity contract on the basis of the
11 clearing price paid by the independent Power Exchange as
12 described in subdivision (c) above, the value of capacity in the
13 clearing price, if any, shall not be paid to the nonutility power
14 generator. The value of capacity in the clearing price, if any,
15 equals the difference between the market clearing customer
16 demand bid at the level of generation dispatched by the
17 independent Power Exchange and the highest supplier bid
18 dispatched.

19 (e) Short-run avoided energy cost payments made pursuant to
20 this section are in addition to contractually specified capacity
21 payments. Nothing in this section shall be construed to affect,
22 modify or amend the terms and conditions of existing nonutility
23 power generators' contracts with respect to the sale of energy or
24 capacity or otherwise.

25 (f) Nothing in this section shall be construed to limit the level
26 of transition cost recovery provided to utilities under electric
27 industry restructuring policies established by the commission.

28 (g) The term "going forward costs" shall include, but not be
29 limited to, all costs associated with fuel transportation and fuel
30 supply, administrative and general, and operation and
31 maintenance; provided that, for purposes of this section, the
32 following shall not be considered "going forward costs": (1)
33 commission-approved capital costs for capital additions to
34 fossil-fueled powerplants, provided that such additions are
35 necessary for the continued operation of the powerplants utilized
36 to meet load and such additions are not undertaken primarily to
37 expand, repower or enhance the efficiency of plant operations;
38 or, (2) commission-approved operating costs for particular
39 utility-owned powerplant units and at particular times when
40 reactive power/voltage support is not yet procurable at

- 1 ~~market-based rates in locations where it is needed, provided that~~
- 2 ~~the recovery shall end on December 31, 2001.~~

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